

DISCUSSION OF THE AMENDMENT

Due to the length of the specification herein, Applicants will cite to the paragraph number of the published patent application (PG Pub) of the present application, i.e., US 2008/0317986, when discussing the application description, both in this section and in the Remarks section, *infra*, rather than to page and line of the specification as filed.

Claim 1 has been amended to make explicit what was at least already implicit, i.e., that layer II is between layers I and III, as supported in the specification at paragraph [0005]. In addition, the term “among” has been replaced with appropriate Markush terminology, and the term “customary” deleted. Claims 7 and 11 have been amended by deleting the superfluous “means of.” Claim 7 has been further amended to recite that interior layer I comprises the fluoropolymer molding composition. Claim 8 has been amended to recite that interior layer I comprises the polyolefin molding composition. Claim 10 has been amended to recite that component II.b. is present.

New Claims 17-20 have been added. Claims 17 and 18 are supported by Claim 1. Claim 19 is supported in the specification at paragraph [0057]. Claim 20 is supported in the specification at any of paragraphs [0076]-[0079].

No new matter is believed to have been added by the above amendment. Claims 1-20 are now pending in the application.

REMARKS

The rejection of Claims 1-16 under 35 U.S.C. § 103(a) as unpatentable over US 2002/0142118 (Schmitz et al) and US 6,355,358 (Böer et al) and US 6,428,866 (Jadamus et al), is respectfully traversed.

The present invention addresses a problem in the art of unsatisfactory adhesion between a layer of ethylene-vinyl alcohol copolymer (EVOH), which acts as a barrier layer in multilayer composites, and a layer based on a fluoropolymer or a polyolefin, which acts as a protective layer which forms a barrier against alcohols, as described in the specification at paragraphs [0001]-[0005]. Applicants have successfully addressed this problem with presently-recited bonding agent layer II, as recited in the present claims.

Schmitz et al, which was cited as “A” category prior art in the International Search Report for the corresponding international application, addresses a problem in the adhesion of an EVOH layer to a polyamide layer based on particular polyamides, such as PA11, PA12, PA612, PA1012 and PA1212 with which EVOH is incompatible [0004], without any use of a polyolefin layer as an adhesion promoter [0012]. Schmitz et al achieve secure bonding of such incompatible layers with a layer disclosed therein as layer I [0015]-[0023].

Böer et al is drawn to a problem of insufficient compatibility between polyamides and polyesters and insufficient adhesion between laminate layers obtained therefrom (column 1, line 56ff). The invention of Böer et al is drawn to an adhesion promoter which is a particular graft copolymer (paragraph bridging columns 2 and 3) that enhances the adhesion between, for example, a polyamide-based layer and a polyester-based layer (column 5, line 66 to column 6, line 4).

Jadamus et al discloses a multilayer plastic composition having (I) an outer layer of a thermoplastic molding composition and (II) an inner layer of an electrically conductive thermoplastic molding composition containing graphite fibrils (column 2, lines 7-13). The

outer layer may be, *inter alia*, a polyolefin molding composition and the inner layer may be, *inter alia*, a polyolefin or a fluoropolymer (column 2, lines 20-28).

The combination of Schmitz et al, Böer et al and Jadamus et al neither discloses nor suggests the presently-claimed invention. While there may be similarities between the layer I material of Schmitz et al and the adhesion promoter of Böer et al to the bonding agent layer II of the present claims, none of the applied prior art address the problem of adhering an EVOH-based layer to an olefin-based or fluoropolymer-based layer, and it would be impossible to predict to what extent, if any, the layer I material of Schmitz et al or the adhesion promoter of Böer et al, would have on adhering presently-recited layers I and III. Jadamus et al adds nothing relevant to the issue of predictability of the layer I material of Schmitz et al or the adhesion promoter of Böer et al as a bonding agent between an EVOH-based layer and an olefin-based or fluoropolymer-based layer.

The Examiner finds at paragraph 20 of the Office Action that “[a]s taught by [Böer et al], one of ordinary skill would have been motivated to include 10-85 parts by weight of the fluoropolymer or polyolefin material in the adhesive composition between the EVOH and fluoropolymer or polyolefin layer in order to increase the adhesion between the two layers.”

In reply, Böer et al contains no such disclosure or suggestion.

For all the above reasons, it is respectfully requested that the rejection be withdrawn.

The rejection of Claims 1-16 under 35 U.S.C. § 112, second paragraph, as indefinite, is respectfully traversed. Contrary to the Examiner's finding, there are no, in effect, incompatible range limitations in the present claims. Components II.a) and II.b) necessarily each contain monomer units used to make a polyamide. Thus, the limitation of “the sum of the components a) and b) comprising at least 20 parts by weight of monomer units...” means that however the 0 to 80 parts by weight component II.a) and the 0 to 100 parts by weight of

the component II.b) are distributed, at least 20 parts thereof have the particular monomer units recited. Thus, there is no indefiniteness.

With regard to the term “customary auxiliaries,” the term “customary” has been deleted. Nevertheless, Applicants point out that such terminology is well-understood in this art, as can be confirmed by paragraph [0115] of Schmitz et al, and column 6, line 55ff of Böer et al.

For all the above reasons, it is respectfully requested that this rejection be withdrawn.

The objection to Claim 1 is now moot in view of the above-discussed amendment. Accordingly, it is respectfully requested that the objection be withdrawn.

All of the presently-pending claims in this application are now believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman E. Oblon



Harris A. Pitlick
Registration No. 38,779

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 03/06)

NFO/HAP:sjh